ordinary skill and knowledge necessary to perform his duty toward those resorting to him in that character." 2 Beven, Neg., 2d ed., 1397. *Sears* v. *Prentice*, 8 East, 348. This duty arises out of the fact of the undertaking merely, and therefore is not at all dependent upon the existence of any contractual relation. The plaintiff's right to careful and skilful treatment, then, was in no wise affected because the defendant was employed by M. *Pippin* v. *Sheppard*, 11 Price, 400; *Longmeid* v. *Halliday*, 6 Exch. 761, per Parke, B., at p. 767; *Dubois* v. *Decker*, 130 N. Y. 325. See also an article on Gratuitous Undertakings, 5 HARVARD LAW REVIEW, 222.

The defendant would have been bound to use due diligence in performing an operation or in prescribing a remedy. Was the duty of care any less in making an examination for the sole purpose of giving information to those interested? If legal damage might result in each case, it would seem irrational to draw distinctions. Legal damage certainly resulted in this case. As early as the sixteenth century, loss of marriage, whether the plaintiff was man or woman, was held to be injury sufficient to support an action of slander. *Dame Morrison's Case*, Jenk. 316; *Davies* v. *Gardiner*, Popham, 36; *Matthew* v. *Crasse*, 2 Bulst. 89. There is no reason why it should not equally well support an action for negligence. The only remaining question is whether the damage was too remote. It was surely a natural and proximate result, and, in view of the fact that part of the defendant's task was to report to M.'s family, it was not only a probable, but an intended consequence. Unusual as the steps to the decision at first appear, the conclusion is found to be sound in point of principle and law.

ONE-MAN CORPORATIONS — BRODERIP *v.* SALOMON REVERSED. — The decision of Mr. Justice Williams in the case of *Broderip* v. *Salomon*, affirmed by Lord Justice Lindley in the Court of Appeals (72 L. T. Rep. 755), has very recently been reversed by the House of Lords (*Salomon* v. *Salomon & Co.*, 13 *The Times* L. R. 46). This will be a satisfaction to most lawyers, and certainly a great relief to many business men. It is now settled that, in the absence of fraud, there is nothing in the intent or policy of the English Companies Act requiring each stockholder to have a real and independent interest in the business. Six of the required seven may be "straw" men, and nobody can object. If this state of things seems undesirable, it is for the legislature, not the courts, to make the change.

The question in this case did not come up between the creditors of the company and the "one man," the promoter vendor, but between the latter and the company itself. In liquidation proceedings against the company Aron Salomon filed an application, whereupon the liquidator counterclaimed, demanding that the applicant indemnify the company for all its debts. It was shown that the six stockholders beside Aron Salomon were his wife and five children, and that each one of these straw members held but one share of stock, although the capital was £40,000 in £1 shares. There seems to have been evidence enough to make it plain that the control of the business in fact was retained by Salomon when he sold it to this company, that he got all the profits, and that the primary object of the sale was to obtain the benefit of limited liability. Mr. Justice Williams held that the applicant was bound to indemnify the company for its debts. There are at least three possible grounds for going back of a company and holding its promoter to such a liability: (1) the

ground that no company at all exists, since the "spirit and policy" of the Companies Act were disregarded; (2) that the promoter vendor is principal and the company agent; and (3) that the company is trustee for him, and so entitled to be reimbursed for necessary expenses as to the *res* held in trust. The first theory could scarcely be advanced in this case by the company itself. Mr. Justice Williams seemed to take the second view, and Lord Justice Lindley the third. The House of Lords rejects all three, and criticises them freely. The Lord Chancellor says there is absolutely no evidence of a fraud on the company, as all the original stockholders knew what they were doing. Even the creditors could not have raised the question of fraud, for they had ample notice of the limitation of liability and the charges on the capital stock. (§ 43 of the Companies Act requires the registration of mortgages.) Nor may the decision of the two inferior courts be rested on the policy and spirit of the Act. Its spirit or intent should be gathered from its own words, and at all events cannot be invoked for the purpose of reading an exception into the statute.

EXPERT MEDICAL TESTIMONY. — That the deliberately expressed opinions of scientific men, upon matters within their province of study, should be of considerable assistance to a jury in settling an issue might reasonably be expected. It is generally agreed, however, that the testimony of medical experts, under present conditions, falls very far short of realizing any such expectation. It daily occurs that directly contradictory opinions are obtained from those whose views should be essentially alike. A single significant instance may be mentioned. In a recent murder trial in New York, six days were spent in hearing the opinions of medical experts. In charging the jury, the judge told them to disregard this testimony entirely, as too contradictory to be of any value. Nowhere is the dissatisfaction with this state of affairs so keenly felt as among reputable members of the medical profession. That their calling should be the subject of so much just criticism in respect to the expert testimony given by its members, is deplored by physicians of standing from all over the country. The desire to remedy the evils of the present system is manifesting itself actively. The medical associations of a great number of the States are busily discussing the question, and suggesting schemes for improvement, and already in New York, Illinois, Pennsylvania, and Minnesota legislative aid has been sought, though as yet in no case granted.

The fact that the experts are retained by the parties to the litigation seems to be the source of the difficulty. Under such circumstances it would perhaps be too much to expect that the testimony should be entirely unprejudiced. The position of the experts is really that of contending participants in the cause. That they so regard themselves, to a degree at least, and that in consequence their controversial feelings are aroused, is certain. An incident illustrating this is related of a case tried before three referees, in which the main point at issue was the physical condition of the plaintiff. Two doctors of wide reputation gave opposing opinions, each for the side on which he was retained, and each with positive assurance. A younger physician testified in a manner apparently unprejudiced, and with evident fairness. In arriving at their conclusion the referees were guided almost entirely by this last opinion, one of them pointing out to his colleagues the astonishing fact that the young man